

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1125 be amended to read as follows:

- 1           Page 2, between lines 3 and 4, begin a new paragraph and insert:
- 2           "SECTION 2. IC 6-2.5-5-41, AS AMENDED BY P.L.235-2007,
- 3           SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4           JULY 1, 2008]: Sec. 41. (a) As used in this section, "qualified media
- 5           production" has the meaning set forth in IC 6-3.1-32-5.
- 6           (b) Except as provided in ~~subsections~~ **subsection** (d), ~~and (e)~~; a
- 7           transaction involving tangible personal property is exempt from the
- 8           state gross retail tax if the person acquiring the property acquires it for
- 9           the person's direct use in a qualified media production in Indiana after
- 10          December 31, 2006.
- 11          (c) For purposes of this section, the following are not considered to
- 12          be directly used in the production of a qualified media production:
- 13               (1) Food and beverage services.
- 14               (2) A vehicle or other means of transportation used to transport
- 15               actors, performers, crew members, or any other individual
- 16               involved in a qualified media production.
- 17               (3) Fuel, parts, supplies, or other consumables used in a vehicle
- 18               or other means of transportation used to transport actors,
- 19               performers, crew members, or any other individual involved in a
- 20               qualified media production.
- 21               (4) Lodging.
- 22               (5) Packaging materials.
- 23          (d) A person is not entitled to an exemption under this section with
- 24          respect to a transaction involving tangible personal property that is:
- 25               (1) a qualified production expenditure (as defined in
- 26               IC 6-3.1-32-6) for which a tax credit is claimed under
- 27               IC 6-3.1-32; or
- 28               (2) acquired for direct use in a qualified media production in
- 29               Indiana if the transaction occurs after December 31, ~~2008~~ **2011**."
- 30          Page 2, between lines 37 and 38, begin a new paragraph and insert:
- 31          "SECTION 4. IC 6-3.1-32-0.5 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS  
 [EFFECTIVE JULY 1, 2008]: Sec. 0.5. As used in this chapter,  
**"affiliated group"** means any combination of the following:

(1) An affiliated group within the meaning provided in Section 1504 of the Internal Revenue Code (except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%)) or a pass through entity if a member of the affiliated group is a shareholder, partner, or member of the pass through entity and the member of the affiliated group is entitled to at least fifty percent (50%) of the distributive income or loss of the pass through entity.

(2) Two (2) or more partnerships (as defined in IC 6-3-1-19), including limited liability companies and limited liability partnerships, that have the same degree of mutual ownership as an affiliated group described in subdivision (1), as determined under rules adopted by the department.

SECTION 5. IC 6-3.1-32-8, AS ADDED BY P.L.235-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. As used in this chapter, "taxpayer" means an individual, **affiliated group**, or entity that has any state tax liability.

SECTION 6. IC 6-3.1-32-10, AS ADDED BY P.L.235-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) This section applies to a taxpayer that claims qualified production expenditures of less than six million dollars (\$6,000,000) in a taxable year for purposes of the tax credit under this chapter. The amount of the tax credit to which a taxpayer is entitled under this chapter equals the product of:

- (1) fifteen percent (15%); multiplied by
- (2) the amount of the taxpayer's qualified production expenditures in the taxable year.

(b) The amount of tax credits allowed under this section for a particular taxable year for all taxpayers may not exceed five million dollars (\$5,000,000).

(c) A taxpayer who desires to claim a tax credit under this section shall file with the department, in the form that the department prescribes, an application stating:

- (1) the amount of the qualified production expenditures the taxpayer proposes to make that would qualify for a tax credit; and
- (2) the amount sought to be claimed as a credit.

(d) The department shall:

- (1) record the time of filing of each application for allowance of a credit under subsection (c);
- (2) approve the applications, if they otherwise qualify for a tax credit under this section, in the chronological order in which the applications are filed in the taxable year; and

1           (3) promptly notify an applicant whether, or the extent to  
2           which, the tax credit is allowable in the taxable year for which  
3           the application is filed.

4           (e) When the total credits approved under this section equal five  
5           million dollars (\$5,000,000) for any taxable year, an application  
6           filed after that time for the same taxable year may not be  
7           approved. However, if an applicant for whom a credit has been  
8           approved fails to file any information required by the department  
9           under section 12(a) of this chapter, an amount equal to the credit  
10          previously allowed or set aside for the applicant may be allowed to  
11          any subsequent applicant for that taxable year. In addition, the  
12          department may, if the applicant so requests, approve a credit  
13          application, in whole or in part, with respect to the next succeeding  
14          taxable year."

15          Renumber all SECTIONS consecutively.

        (Reference is to EHB 1125 as printed February 13, 2008.)

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Senator DROZDA